

Appl. No.: 09/977,895
Filed: October 15, 2001
Response dated 01/27/2006

REMARKS

This response is submitted with a request for a three month extension and appropriate fee in reply to the Office Action dated July 29, 2005. Claims 1-5 currently stand rejected. Claim 1 has been amended to improve readability of the claim. No new matter has been added by the amendment.

In light of the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Rejections Under 35 U.S.C. §112

Claims 1-5 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action asserts that the claim does not set forth any steps involved in the method. Applicants respectfully traverse.

The steps disclosed by independent claim 1 positively recite actions which, if taken by a performer of the method, prevent reduction of sales amount of records due to a digital music file being illegally distributed through a computer communication network. Specifically, by performing the actions recited in independent claim 1, the performer of the method will have produced a digital music file that may be publicly distributed without reducing legitimate sales of the digital music file, since those wishing to possess the digital music file permanently will be induced to purchase a legitimate version of the digital file because the distributed digital music file is either deteriorated or damaged and, therefore, not a feasible substitute for the legitimate version. The method as claimed in independent claim 1 is clearly described throughout the specification, and in particular at page 8, line 18 to page 10, line 3, in reference to Figure 2.

Accordingly, Applicants respectfully submit that the rejections of claims 1-5 under 35 U.S.C. §112, second paragraph, are overcome.

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Claim Rejections

Claims 1-4 currently stand rejected under 35 U.S.C. §102(e), as being anticipated by Wisner et al. (U.S. Patent No. 6,385,596, hereinafter "Wisner"). Claim 5 currently stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wisner. Applicants respectfully traverse.

Independent claim 1 recites, *inter alia*, producing an advertising digital music file by performing one of either deteriorating or damaging a sound quality of an original music file of a cooperating record corporation. In other words, sound quality an original music file is either deteriorated or damaged to produce an advertising digital music file.

Wisner is directed to a secure online music distribution system (col. 3, lines 5-10). In order to provide such security, Wisner discloses that an encrypted version of a song, which is a high fidelity audio image, is provided to be purchased (col. 3, lines 54-55). For publicity purposes, Wisner also discloses that lower quality "clips" are also available for free to assist the customer in deciding whether to buy the song (col. 3, lines 58-61). However, contrary to the claimed invention, the clips are selected portions or the entire song that are recorded with lesser quality. At col. 12, lines 12-15, Wisner discloses that a media data file (200) may include different audio images (208), each having different quality levels. However, there is no teaching or suggestion in the cited passage, or any portion of Wisner, that the sound quality of an original music file is either deteriorated or damaged to produce an advertising digital music file as claimed in the claimed invention. Rather, music files recorded at different quality levels are disclosed.

Accordingly, Wisner fails to teach or suggest producing an advertising digital music file by performing one of either deteriorating or damaging a sound quality of an original music file of a cooperating record corporation as claimed in independent claim 1. Thus, Wisner fails to anticipate or render independent claim 1 obvious. Claims 2-5 depend directly from independent claim 1 and thus include all the recitations of independent claim 1. Therefore, dependent claims 2-5 are patentable for at least those reasons given above for independent claim 1. Accordingly, Applicants respectfully submit that the rejections of claims 1-5 are overcome.

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CONCLUSION

In view of the remarks presented above, it is respectfully submitted that all of the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

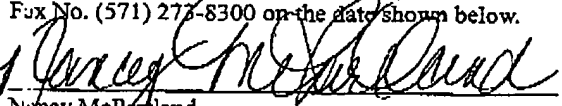


Chad L. Thorson
Registration No. 55,675

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

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